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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,970	09/09/2003	Michal Hlavac	INGEENI-2	3999
7590 Mark J. Pandiscio Pandiscio & Pandiscio, P.C. 470 Totten Pond Road Waltham, MA 02451-1914			EXAMINER DUNHAM, JASON B.	
			ART UNIT 3625	PAPER NUMBER
			MAIL DATE 07/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/658,970	<b>Applicant(s)</b> HLAVAC ET AL.	
	<b>Examiner</b> Jason B. Dunham	<b>Art Unit</b> 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-10 and 12-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 12-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/25/07</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 23, 2007 has been entered. Applicant amended claims 1 and 16. Claims 1,3-10, and 12-16 are pending.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1,3-10, and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes-Roth (U.S. Patent Application Publication 2003/0028498 in view of Vance (U.S. Patent No. 6,267,672).**

Referring to claim 1. The combination of Hayes-Roth and Vance discloses a method for doing business comprising:

- Providing an individual with a virtual environment and at least one virtual element within said virtual environment, wherein said virtual environment is configured so

that additional virtual elements can be introduced into said virtual environment, and wherein at least one of said virtual elements comprises a virtual character comprising a behavior state, an emotion state, and a learning state, and wherein said behavior state, said emotion state, and said learning state are capable of changing in response to stimuli received from within said virtual environment and/or commands from outside of said virtual environment (Hayes-Roth: abstract, paragraphs 4,6,23, & 46); and

- Enabling a customer to add an additional virtual element to the virtual environment (Hayes-Roth: paragraphs 6, 7, 179);
- Hayes-Roth discloses all of the above but does not expressly disclose requiring the customer to buy a product. Vance discloses a method for doing business wherein the enabling a customer to add an additional virtual element to the virtual environment is effected by: requiring the customer to buy a product which is different than, and unrelated to the additional virtual element, and as a consequence of the customer's purchase of the product, supplying the customer with access to the additional virtual element, whereby to induce the customer to buy the product (Vance: abstract and figures 1-4.). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method of Hayes-Roth to have included requiring the customer to buy a product, as taught by Vance, in order to encourage consumers to purchase a product (Vance: abstract).

Referring to claim 3. The combination of Hayes-Roth and Vance further discloses a method wherein the product comprises a good (Hayes-Roth: paragraph 7).

Referring to claim 4. The combination of Hayes-Roth and Vance further discloses a method wherein the product comprises a service (Hayes-Roth: paragraph 7).

Referring to claim 5. The combination of Hayes-Roth and Vance further discloses a method wherein the product is purchased by the customer on-line (Hayes-Roth: abstract).

Referring to claim 6. The combination of Hayes-Roth and Vance further discloses a method wherein the product is purchased by the customer at a physical location (Hayes-Roth: paragraphs 7 & 15).

Referring to claim 7. The combination of Hayes-Roth and Vance further discloses a method wherein said additional virtual element is delivered to the customer on-line (Hayes-Roth: abstract, paragraph 7).

Referring to claim 8. The combination of Hayes-Roth and Vance further discloses a method wherein said additional virtual element is delivered to the customer on electronic storage media (Hayes-Roth: paragraph 6).

Referring to claim 9. The combination of Hayes-Roth and Vance further discloses a method wherein said additional virtual element is configured to change state in response to stimuli received from within said virtual environment and/or commands from outside said virtual environment (Hayes-Roth: paragraphs 46 & 48).

Referring to claim 10. The combination of Hayes-Roth and Vance further discloses a method wherein said additional virtual element comprises a virtual character (Hayes-Roth: paragraphs 6 & 7).

Referring to claim 15. The combination of Hayes-Roth and Vance further discloses a method of doing business wherein access is effected by delivering an access code to the customer, such that the customer can use the access code to introduce the additional virtual element to the virtual environment (Vance: abstract). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method of Hayes-Roth to have included access effected by delivering an access code to the customer, as taught by Vance, to encourage consumers to purchase more products (Vance: abstract).

Referring to claim 16. Claim 16 is rejected under the same rationale set forth above in the rejection of claim 1.

**Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Hayes-Roth and Vance and further in view of Nakisa (U.S. Patent No. 6,968,315).**

Referring to claim 12. The combination of Hayes-Roth and Vance discloses all of the above but does not expressly disclose a method including the step of tracking the results of customer interaction through metrics specific to a measure of brand involvement. Nakisa discloses a method including the step of tracking the results of customer interaction through metrics specific to a measure of brand involvement

(Nakisa: column 3, lines 34-49 & column 6, lines 48-67). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method of Hayes-Roth/Vance to have included the step of tracking the results of customer interaction through metrics specific to a measure of brand involvement, as taught by Nakisa, in order to better tailor advertising to customers (Nakisa: abstract).

**Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Hayes-Roth and Vance and further in view of Kolawa U.S. Patent Application Publication No. 2006/0026048).**

Referring to claims 13-14. The combination of Hayes-Roth and Vance discloses all of the above but does not expressly disclose a method wherein access is effected by physical delivery of media. Kolawa discloses a method of doing business wherein access to a virtual element is effected by physical delivery of media containing a representation of the virtual element and wherein the media contains computer software (Kolawa: paragraph 167). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have modified the method of Hayes-Roth/Vance to have included access effected by physical delivery of media, as taught by Kolawa in order to provide the user with a hard copy of the media (Kolawa: paragraph 167).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1,3-10, and 12-16 have been considered but are moot in view of the new ground(s) of rejection. Vance clearly

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discloses consumers buying an unrelated product and supplying access to virtual elements with a remotely accessible game as indicated above in the rejection of claim 1.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason B. Dunham whose telephone number is 571-272-8109. The examiner can normally be reached on M-F, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogesh Garg can be reached on 571-272-6756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**NAEEM HAQ**  
**PRIMARY EXAMINER**



JBD  
Patent Examiner  
6/28/07